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DRAFT AGREEMENT ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Prepared by the Secretariat

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DRAFT AGREEMENT ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

The States Parties to the present Agreement,

Considering that the United Nations Convention on the Law of the Sea provides for the establishment of the International Tribunal for the Law of the Sea,

Recognizing that the Tribunal enjoys such legal capacity, privileges and immunities as are necessary for the exercise of its functions,

Recalling that the Statute of the Tribunal provides, in article 10, that the Members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities,

Recognizing that persons participating in proceedings and officials of the Tribunal should enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Tribunal,

Have agreed as follows:

Article 1

Use of terms

For the purposes of this Agreement:

(a) "Convention" means the 1982 United Nations Convention on the Law of the Sea;

(b) "Statute" means the Statute of the International Tribunal for the Law of the Sea in Annex VI to the Convention;

(c) "States Parties" means States Parties to this Agreement;

(d) "Tribunal" means the International Tribunal for the Law of the Sea;

(e) "Member of the Tribunal" means an elected member of the Tribunal;

(f) "Member ad hoc of the Tribunal" means a person chosen under article 17 of the Statute for the purpose of a particular case;

(g) "officials of the Tribunal" means the Registrar and other members of the staff of the Registry;

(h) "Vienna Convention" means the Vienna Convention on Diplomatic Relations of 18 April 1961.

Article 2

Juridical personality of the Tribunal

The Tribunal shall possess juridical personality. It shall have the capacity:

(a) to contract;

(b) to acquire and dispose of immovable and movable property;

(c) to institute legal proceedings.

Article 3

Inviolability of the premises of the Tribunal

The premises of the Tribunal shall be inviolable, subject to reasonable conditions established by agreement with the State Party concerned.

Article 3 bis

Flag and emblem

The Tribunal shall be entitled to display its flag and emblem in its premises and on vehicles used for official purposes.

Article 4

Immunity of the Tribunal, its property, assets and funds

1. The Tribunal shall enjoy immunity from legal process, except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

2. The property, assets and funds of the Tribunal, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, seizure, expropriation or any other form of interference, whether by executive, administrative, judicial or legislative action.

3. To the extent necessary to carry out its functions, the property, assets and funds of the Tribunal shall be exempt from restrictions, regulations, controls and moratoria of any nature.

4. The immunities referred to in this article shall not extend to an action for damages arising from an accident involving a vehicle in respect of which the Tribunal may be liable. Pursuant to the laws and regulations of the State concerned, the Tribunal shall be required to have insurance coverage against third-party risks in respect of vehicles owned or operated by it.

Article 5

Archives

The archives and documents of the Tribunal shall be inviolable at all times and wherever they may be located. The location of the archives of the Tribunal shall be made known to the State Party concerned.

Article 6

Exercise of the functions of the Tribunal outside the Headquarters

In the event that the Tribunal sits and exercises its functions elsewhere than at its Headquarters it may conclude with the State concerned an arrangement concerning the provision of the appropriate facilities for the exercise of its functions.

Article 7

Communications

1. For the purposes of its official communications, the Tribunal shall enjoy in the territory of each State Party, in so far as is compatible with the international obligations of the State concerned, treatment not less favourable than that which the State Party accords to any intergovernmental organization or diplomatic mission in the matter of priorities, rates and taxes applicable to mails and the various forms of communications.

2. The Tribunal may use all appropriate means of communications and make use of codes for its official communications. The official communications and correspondence of the Tribunal shall be inviolable. States Parties shall not apply any censorship or any other form of interference with such communications.

3. The Tribunal shall have the right to dispatch and receive correspondence and other materials or communications by courier or in sealed bags, which shall have the same privileges, immunities and facilities as diplomatic couriers and bags.

Article 8

Exemption from taxes, customs duties and import or export restrictions

1. The Tribunal, its assets, income and other property, and its operations and transactions shall be exempt from all direct taxes; it is understood, however, that the Tribunal shall not claim exemption from taxes which are no more than charges for public utility services.

2. The Tribunal shall be exempt from all customs duties, import turnover taxes and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Tribunal for its official use. Goods imported or purchased under such an exemption shall not be sold or otherwise disposed of in the territory of a State Party, except under conditions agreed with the Government of that State Party. The Tribunal shall also be exempt from all customs duties, import turnover taxes, prohibitions and restrictions on imports and exports in respect of its publications.

Article 9

Reimbursement of duties and/or taxes

The Tribunal shall not, as a general rule, claim exemption from duties and taxes which are included in the price of movable and immovable property and taxes paid for services rendered. Nevertheless, when the Tribunal for its official use makes major purchases of property and goods or services on which duties and taxes are charged or are chargeable, States Parties shall make appropriate administrative arrangements for the exemption of such charges or reimbursement of the amount of duty and/or tax paid.

Article 10

Taxation

1. The salaries and emoluments paid to Members, Members ad hoc and the Registrar and other officials of the Tribunal shall be exempt from taxation.

2. Where the incidence of any form of taxation depends upon residence, periods during which such Members or officials are present in a State for the discharge of their functions shall not be considered as periods of residence.

3. States Parties shall not be obliged to exempt from income tax pensions or annuities paid to former Members and former officials of the Tribunal.

Article 11

Funds and freedom from currency restrictions

1. Without being restricted by financial controls, regulations or financial moratoria of any kind, while carrying out its activities:

(a) the Tribunal may hold funds or currency of any kind and operate accounts in any currency;

(b) the Tribunal shall be free to transfer its funds or currency from one country to another or within any country and to convert any currency held by it into any other currency;

(c) the Tribunal may receive, hold, negotiate, transfer, convert or otherwise deal with bonds and other financial securities.

2. In exercising its rights under paragraph 1, the Tribunal shall pay due regard to any representations made by any State Party in so far as it is considered that effect can be given to such representations without detriment to the interests of the Tribunal.

Article 12

Members and Members ad hoc of the Tribunal

1. Members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy the privileges, immunities, facilities and prerogatives accorded to heads of diplomatic missions in accordance with the Vienna Convention.

2. Members of the Tribunal and members of their families forming part of their households shall be accorded every facility for leaving the country where they may happen to be and for entering and leaving the country where the Tribunal is sitting. On journeys in connection with the exercise of their functions, they shall in all countries through which they may have to pass enjoy all the privileges, immunities and facilities granted by these countries to diplomatic agents in similar circumstances.

3. If Members of the Tribunal, for the purpose of holding themselves at the disposal of the Tribunal, reside in any country other than that of which they are nationals or permanent residents, they shall, together with the members of their families forming part of their households, be accorded diplomatic privileges, immunities and facilities during the period of their residence there. The States concerned must exercise their jurisdiction over those persons in such a manner as not to interfere with the functions of the Tribunal.

4. In order to secure, for Members of the Tribunal, complete freedom of speech and independence in the discharge of their functions, the immunity from legal process in respect of words spoken or written and all acts done by them while discharging their functions shall continue to be accorded, notwithstanding that the persons concerned are no longer Members of the Tribunal or performing those functions.

5. Members of the Tribunal shall be accorded, together with members of their families forming part of their households, the same repatriation facilities in time of international crises as diplomatic agents are accorded under the Vienna Convention.

6. Privileges, immunities, facilities and prerogatives are accorded to the Members of the Tribunal not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Tribunal.

7. This article shall apply to Members of the Tribunal even after the expiry of their terms of office if they continue to exercise their functions in accordance with article 5, paragraph 3, of the Statute.

8. This article shall also apply to Members ad hoc of the Tribunal.

Article 13

Officials

1. The Registrar shall, when engaged on the business of the Tribunal, be accorded diplomatic privileges, immunities and facilities.

2. Other officials of the Tribunal shall enjoy in any country where they may be on the business of the Tribunal, or in any country through which they may pass on such business, such privileges, immunities and facilities as are necessary for the independent exercise of their functions. In particular, they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the official concerned;

(c) immunity from legal process in respect of words spoken or written and all acts done by them while discharging their functions, which immunity shall continue even after they have ceased to exercise their functions;

(d) immunity from national service obligations;

(e) exemption from immigration restrictions or alien registration;

(f) the same privileges in respect of currency and exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions to the Government concerned;

(g) the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question and to re-export the same free of duty to their country of permanent residence;

(h) the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention.

3. The immunities referred to in this article shall not extend to an action for damages arising from an accident involving a vehicle in respect of which the officials of the Tribunal may be liable. Pursuant to the laws and regulations

of the State concerned, the officials of the Tribunal shall be required to have insurance coverage against third-party risks in respect of vehicles owned or operated by them.

4. The Registrar shall specify the categories of officials to which the provisions of this article shall apply. He shall submit these categories to the Tribunal. These categories shall also be communicated to all States Parties. The names of the officials included in these categories shall from time to time be communicated to all States Parties.

Article 14

Experts appointed under article 289 of the Convention

1. Experts appointed under article 289 of the Convention shall be accorded, during the period of their missions, including the time spent on journeys in connection with their missions, such privileges, immunities and facilities as are necessary for the independent exercise of their functions. In particular, they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the expert concerned;

(c) immunity from legal process in respect of words spoken or written and acts done by them while discharging their functions, which immunity shall continue even after they have ceased to exercise their functions;

(d) inviolability of documents and papers;

(e) exemption from immigration restrictions or alien registration;

(f) the same facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. Such experts shall be accorded the same repatriation facilities in time of international crises as diplomatic agents are accorded under the Vienna Convention.

Article 15

Agents, counsel and advocates

1. Agents representing parties to proceedings before the Tribunal as well as counsel and advocates designated to appear before it shall be accorded the privileges, immunities and facilities necessary for the independent exercise of their functions during their journey to and from the place where the Tribunal is sitting, and while exercising their functions. In particular, they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the agent, counsel or advocate concerned;

(c) immunity from legal process in respect of words spoken or written and all acts done by them while discharging their functions, which immunity shall continue even after they have ceased to exercise their functions;

(d) inviolability of documents and papers;

(e) the right to receive papers or correspondence by courier or in sealed bags;

(f) exemption from immigration restrictions or alien registration;

(g) the same facilities in respect of their personal baggage and in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(h) the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention.

2. Upon receipt of notification from parties to proceedings before the Tribunal as to the appointment of an agent, counsel or advocate, a certification of the status of such representative shall be provided under the signature of the Registrar and limited to a period reasonably required for the proceedings.

3. The competent authorities of the State concerned shall accord the privileges, immunities and facilities provided for in this article upon production of the certification referred to in paragraph 2.

4. Where the incidence of any form of taxation depends upon residence, periods during which such agents, counsel or advocates are present in a State for the discharge of their functions shall not be considered as periods of residence.

Article 16

Witnesses, experts and persons performing missions

1. Witnesses, experts and persons performing missions by order of the Tribunal shall be accorded, during the period of their missions, including the time spent on journeys in connection with their missions, the privileges, immunities and facilities provided for in article 14, paragraph 1, subparagraphs (a) to (f).

2. Witnesses, experts and such persons shall be accorded repatriation facilities in time of international crises.

Article 17

Respect for laws and regulations

1. Without prejudice to their privileges and immunities, it is the duty of all persons referred to in articles 12 to 16 to respect the laws and regulations of the State Party in whose territory they may be on the business of the Tribunal or through whose territory they may pass on such business. They also have a duty not to interfere in the internal affairs of that State.

2. Privileges and immunities, facilities and prerogatives in accordance with articles 13 to 16 of this Agreement are granted not for the personal benefit of the individuals themselves but in order to safeguard the independent exercise of their functions in connection with the Tribunal.

Article 18

Waiver

1. Inasmuch as the privileges and immunities referred to in articles 13 to 16 are granted in the interests of the good administration of justice and not for the personal benefit of the individuals themselves, the competent authority has the right and the duty to waive the immunity in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the administration of justice.

2. For this purpose, the competent authority in the case of agents, counsel and advocates representing or designated by a party to proceedings before the Tribunal will be the party concerned. In the case of the Registrar, experts appointed under article 289 of the Convention and witnesses, experts and persons performing missions, the competent authority will be the Tribunal. In the case of other officials of the Tribunal, the competent authority will be the Registrar, acting with the approval of the President of the Tribunal.

Article 19

Laissez-passer and visas*

1. The Tribunal may issue laissez-passer to the Members and officials of the Tribunal. These laissez-passer shall be recognized and accepted as valid travel documents by the authorities of States Parties, taking into account the provisions of paragraph 2.

2. Applications for visas (where required) from the Members of the Tribunal and the Registrar shall be dealt with as speedily as possible. Applications for visas from all other holders of laissez-passer issued by the Tribunal and from persons referred to in articles 14, 15 and 16, when accompanied by a certificate that they are travelling on the business of the Tribunal, shall be dealt with as speedily as possible.

Article 20

Freedom of movement

No administrative or other restrictions shall be imposed on the free movement of Members of the Tribunal and other persons referred to in articles 12 to 16 to and from the Headquarters of the Tribunal or the place where the Tribunal is sitting or exercising its functions.

Article 21

Maintenance of security and public order

1. If the State Party concerned considers it necessary to take, without prejudice to the independent and proper working of the Tribunal, measures necessary for the security or for the maintenance of public order of the State Party in accordance with international law, it shall approach the Tribunal as rapidly as circumstances allow in order to determine by mutual agreement the measures necessary to protect the Tribunal.

2. The Tribunal shall cooperate with the Government of such State Party to avoid any prejudice to the security or public order of the State Party resulting from its activities.

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* In the event that arrangements are entered into with the United Nations for the issuance of laissez-passer of the United Nations, the Tribunal may not need to issue its own laissez-passer.

Article 22

Cooperation with the authorities of States Parties

The Tribunal shall cooperate at all times with the appropriate authorities of States Parties to facilitate the execution of their laws and to prevent any abuse in connection with the privileges, immunities and facilities referred to in this Agreement.

Article 23

Settlement of disputes

1. The Tribunal shall make suitable provisions for the settlement of:

(a) disputes arising out of contracts and other disputes of a private law character to which the Tribunal is a party;

(b) disputes involving any person referred to in articles 13 to 16 who by reason of his official position enjoys immunity, if such immunity has not been waived in accordance with article 18.

2. All disputes arising out of the interpretation or application of this Agreement shall be referred to an arbitral tribunal unless the parties have agreed to another mode of settlement. If a dispute arises between the Tribunal on the one hand and a State Party on the other hand, which is not settled by consultation, negotiation or other agreed mode of settlement within three months following a request by one of the parties to the dispute, it shall at the request of either party be referred for final decision to a panel of three arbitrators: one to be chosen by the Tribunal, one to be chosen by the State Party and the third, who shall be Chairman of the panel, to be chosen by the first two arbitrators. If either party has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other party, the Secretary-General of the United Nations shall make such appointment. Should the first two arbitrators fail to agree upon the appointment of the third arbitrator within three months following the appointment of the first two arbitrators, the Chairman shall be chosen by the Secretary-General of the United Nations upon the request of the Tribunal or the State Party.

Article 24

Signature

This Agreement shall be open for signature by all States and shall remain open for signature at United Nations Headquarters for twelve months from the .... of .... 199..

Article 25

Ratification

This Agreement is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26

Accession

This Agreement shall remain open for accession by all States. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 27

Entry into force

1. This Agreement shall enter into force 30 days after the date of deposit of the fifteenth instrument of ratification or accession.

2. For each State which ratifies the Agreement or accedes thereto after the deposit of the fifteenth instrument of ratification or accession, this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 28

Ad hoc application

Where a dispute has been submitted to the Tribunal in accordance with its Statute, any State other than a State Party which is a party to the dispute may, ad hoc for the purposes and duration of the case relating thereto, become a party to this Agreement by the deposit of an instrument of acceptance. Instruments of acceptance shall be deposited with the Secretary-General of the United Nations and shall become effective on the date of deposit.

Article 29

Reservations and exceptions

No reservations or exceptions may be made to this Agreement.

Article 30

Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 31

Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 32

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

OPENED FOR SIGNATURE at New York, this .... day of one thousand nine hundred and ...., in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

UNITED NATIONS CONVENTION
ON THE LAW OF THE SEA

SPLOS

MEETING OF
STATES PARTIES

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MEETING OF STATES PARTIES
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DRAFT REVISED BUDGET ESTIMATES FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA COVERING THE PERIOD AUGUST 1996-DECEMBER 1997

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I. INTRODUCTION

1. The International Tribunal for the Law of the Sea (hereinafter "the Tribunal") was created by the 1982 United Nations Convention on the Law of the Sea (hereinafter "the Convention"). The Statute of the Tribunal (annex VI to the Convention) sets out its method of functioning and its composition. It is a body of 21 elected Members (judges) and is served by a Registry. The Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea was charged with making the necessary arrangements for the commencement of the functions of the Tribunal. Special Commission 4, with delegated responsibility, 1/ *inter alia*, prepared a report containing recommendations regarding practical arrangements for the establishment of the Tribunal, which was submitted to the Meeting of States Parties to the Convention 2/ by the Preparatory Commission.

II. CONSIDERATION OF ADMINISTRATIVE AND BUDGETARY REQUIREMENTS BY THE MEETINGS OF STATES PARTIES

2. The second Meeting of States Parties, held in New York from 15 to 19 May 1995, considered administrative and budgetary requirements of the Tribunal. It agreed on the approach to be followed concerning the establishment of the Tribunal, its initial functions and related matters. 3/

3. The approach and assumptions relevant to preparing the draft budget were laid out in some detail, 4/ emphasizing that the principle of cost-effectiveness would apply to all aspects of the work of the Tribunal. On that basis, the Meeting requested and the Secretariat prepared a draft budget of the Tribunal for the initial period, from 1 August 1996 to 31 December 1997 (SPLOS/WP.1).

4. Consistent with its earlier decisions, that draft budget was reviewed and revised by the Meeting of States Parties, with the participation of financial experts of States, at its third Meeting (New York, 27 November-1 December 1995). The report of that Meeting (SPLOS/5) reflects that review. The budgetary estimates presented herein incorporate the results of the review and also the conclusions and implications arising therefrom. The proposed staffing structures and related costs were closely scrutinized and substantially trimmed. Reductions were made in the estimates for recurrent and non-recurrent expenditures. The overall estimates were strictly limited.

5. The estimates resulting from the above revision, together with the applicable criteria, were presented to the fourth meeting (New York, 4-8 March 1996) for adoption.

III. WORK PROGRAMME OF THE TRIBUNAL DURING THE INITIAL PERIOD

6. The organizational arrangements for the tribunal during this preliminary organizational phase, or the "start-up" period of the Tribunal's activities were set out in SPLOS/WP.1. 5/

7. In reviewing the administrative arrangements and structure and staffing of the Registry, the third Meeting of States Parties decided that the initial period from 1 August 1996 to 31 December 1997 would constitute a single phase at the end of which, in January 1998, the Tribunal would enter the first functional phase. The Meeting assumed that the required level of staff and services to fulfil the needs of the first functional phase that follows in 1998 and the appropriate arrangements would be determined in due time by the Tribunal and its Registry, for the approval of the Meeting of States Parties. It is assumed that in the first functional phase, an appropriate structure for the Registry would be required. 6/

A. Judiciary

8. During the preliminary organizational phase, which is anticipated to span 15 months from when all 21 judges first convene, they would organize their work, elect officials from among themselves, make the necessary administrative arrangements and appoint an Acting Registrar. The judges would also have to adopt the Rules of the Tribunal, formulate the terms and conditions of service for the officials and staff of the Registry, organize the procedures and arrangements, including those for dealing with cases and internal procedures, for budget, accounts, administration, personnel, etc., elect a Registrar and appoint a deputy.

B. Registry

9. The Registry, as the administrative organ, is required to: (a) provide legal, procedural, administrative, linguistic and any technical support; (b) be responsible for the financial and accounting administration; (c) also be responsible for documentation, archiving and library services; (d) carry out personnel management and administration; and (e) provide for all purchasing, storage and other general services. The organization of the Registry and the appointment of staff are to be approved by the Tribunal on the recommendation of the Registrar.

10. Initially a small nucleus of staff would service the meetings of the judges and organize the Registry. Pending the establishment of terms, conditions and other arrangements and the adoption of administrative and financial rules, an Acting Registrar would be charged with carrying out those functions.

11. During the start-up period the Registry would have to carry out its internal administrative organization and recruitment, while giving effect to the personnel, budgetary and accounting arrangements that are adopted.

12. One of the areas of internal organization, as emphasized by both the Preparatory Commission and the General Assembly, 7/ would be the establishment of the library of the Tribunal and making it operational. No budgetary provision has been made for this purpose.

IV. ADMINISTRATIVE EXPENSES OF THE TRIBUNAL: CRITERIA APPLIED

A. Members of the Tribunal and their remuneration

13. Consistent with the determination of the Meeting of States Parties, 8/ the overall remuneration of the Members of the Tribunal will consist of three elements: an annual allowance, a special allowance for each day that they are engaged on the business of the Tribunal, and a subsistence allowance for each day that they are required to be present at the seat of the Tribunal. The overall remuneration of the Members of the Tribunal would not exceed the level of remuneration of a Judge of the International Court of Justice.

14. The remuneration of the Judges of the International Court of Justice, as determined by the General Assembly, is reflected in document A/C.5/48/66. They receive a net salary of $145,000 per annum, which is the comparator and the basis for the estimates presented herein.

15. In these estimates, following the criteria established in the deliberations, taking into account the level of remuneration of the Members of the Tribunal on the basis of equivalencies with remuneration levels of Judges of the International Court of Justice as well as the requirements of the Statute, 9/ the annual allowance would be one third of the net salary of the comparator (approximately $48,000). 10/ The Members of the Tribunal will receive a special allowance, computed only for periods when they are actively engaged on the business of the Tribunal. The maximum special allowance for any calendar year would also be one third of the net salary of the comparator (approximately $48,300). 11/ Their remuneration is dependent upon duration of engagement on the business of the Tribunal and presence at the seat of the Tribunal.

16. As regards subsistence allowance payable for each day that a judge is present at the seat of the Tribunal, consistent with the earlier estimates and deliberations, where presence at the seat of the Tribunal is required for a prolonged period, the maximum subsistence allowance would be for 250 working days in any calendar year. For the purposes of the present estimates, the current level of daily subsistence allowance for Hamburg under United Nations practice has been used. 12/ The maximum amount of subsistence allowance for any calendar year would therefore also be computed at approximately $48,000 on the basis of one third of the net salary of the comparator.

17. Based on these criteria using the comparator would result in maintaining equivalence with the remuneration levels of Judges of the International Court of Justice.

18. During the initial period, August 1996-December 1997, other than the President, the 20 Members of the Tribunal would not be required to reside at the seat of the Tribunal. 13/ They would thus receive the annual allowance, the special allowance for each day that they are engaged on the business of the Tribunal and a subsistence allowance for each day that they are in attendance at the seat of the Tribunal. The President of the Tribunal will reside at the seat of the Tribunal and would be entitled to an annual overall remuneration of

$145,000. In addition, he will receive a special annual allowance, 14/ which for the purpose of these estimates is $15,000.

19. The Members of the Tribunal will meet for up to 12 weeks during the initial period, August 1996-December 1997. 15/ Thus, other than the President of the Tribunal, each of the 20 Members of the Tribunal would receive the special allowance for up to 12 weeks as well as subsistence allowance for up to 12 weeks during the period.

20. The present estimates provide for up to 12 weeks of preparatory work by Members of the Tribunal. In carrying out such preparatory work all 20 Members (the President being resident at the seat) would meet at the seat of the Tribunal for half of the 12 weeks, i.e., 6 weeks. Thus, on account of preparatory work, other than the President of the Tribunal, each of the 20 Members of the Tribunal would receive the special allowance for up to 12 weeks and subsistence allowance for up to 6 weeks.

21. The view was expressed in the deliberations of the third Meeting of States Parties that the Tribunal should be seen as a judicial institution that embodies the highest expertise in the law of the sea and related fields. The remuneration of Members of the Tribunal should be commensurate with the calibre and standing of the eminent jurists who would be elected to the Tribunal. They would lend their distinction, their stature and their international reputation to the Tribunal.

22. In this context, note was also taken of the restrictions imposed upon Members of the Tribunal by the Convention in annex VI, article 7, which provides:

> "1. No member of the Tribunal may exercise any political or administrative function, or associate actively with or be financially interested in any of the operations of any enterprise concerned with the exploration for or exploitation of the resources of the sea or the seabed or other commercial use of the sea or the seabed.
>
> "2. No member of the Tribunal may act as agent, counsel or advocate in any case.
>
> "3. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present."

B. Staff of the Registry and their remuneration

23. The third Meeting of States Parties reviewed the earlier proposals and concluded that in the development of the Registry the initial period between August 1996 and December 1997 could be considered to represent a start-up phase leading towards the first functional phase. The start-up will be with a small nucleus of staff to service the executive sessions of the judges and to serve to organize and carry out the functions of the Registry. The number and level of the staff at start-up as well as the indicative designation of functions, as proposed by the Meeting of States Parties, are presented in annexes I and II to

the present document. Following the election of the Registrar, the post would be encumbered at the level of Assistant Secretary-General, while the D-1 level post would be eliminated. No adjustment in the estimates would be required.

24. Some flexibility has been reflected in the definition of functions and utilization of posts that are required. For the same reason, multivalent staff having expertise in different areas may be preferable to staff with defined and limited specialities.

25. Since the demands of creating a new institution are not predictable, the Meeting of States Parties has also made some limited provision for contingencies which would allow the engagement of temporary staff. This appropriation would be utilized as the needs dictate. However, if any applications or cases are to be taken up for consideration, deliberations or hearings during the initial budget period (1996-1997), the financial implications of court proceedings would have to be estimated separately and appropriate budgetary arrangements would be required. The Meeting of States Parties may consider whether the President of the Tribunal and/or the Registrar can initiate a procedure by which to respond should an emergency situation arise during this period.

26. In these estimates, it is assumed that the staff of the Registry would be remunerated according to the practice of the United Nations common system of organizations. 16/

C. Transitional arrangements

27. During the initial period, to provide continuity of services, the Secretary-General may, from 1 August 1996, appoint on an interim basis for up to one year such staff as may be needed, against those approved in the initial budget. He may assign or second staff from the United Nations Secretariat to the Registry of the Tribunal for this purpose.

28. To provide for the transition from the services of the Secretariat of the United Nations, the Secretary-General may also assign an Acting Registrar for a period pending the election of the Registrar by the Tribunal.

29. The United Nations may likewise recruit General Services level staff on a short-term basis and shall administer the staff so recruited. This would mean that the staff would serve under the Staff Regulations and Rules of the United Nations and the processing of entitlements would also be done under its staff rules and regulations, pending the adoption of administrative and staff rules by the Tribunal.

D. Other items of recurrent expenditure

30. The Meeting of States Parties also reviewed estimates of other items of recurrent expenditure as well as items of non-recurrent expenditure, as presented in SPLOS/WP.1/Rev.1, annex. Such objects of expenditure include temporary assistance for meetings, general temporary assistance and official

travel of staff. Communications requirements are special, particularly to serve the judges, whether at the seat or at other locations. 17/

E. Non-recurrent expenditures

31. Estimates of non-recurrent expenditures, as reviewed, include those pertaining to office equipment and furniture, data-processing equipment, transportation equipment, etc.

F. Estimates

32. The estimates for the administrative expenses of the Tribunal for the period from 1 August 1996 to 31 December 1997 as reviewed and revised by the Meeting of States Parties are presented in annex III, as follows: (a) recurrent expenditures; (b) non-recurrent expenditures; (c) start-up costs (preparatory work: April-July 1996) and (d) contingencies.

V. FUNDING OF THE BUDGET FOR THE INITIAL PERIOD AND ASSESSED CONTRIBUTIONS

33. The Convention states that the expenses of the Tribunal shall be borne by the States Parties and the International Seabed Authority and also by other users of the Tribunal, including States that are not States Parties. 18/

34. A scheme for apportionment among States Parties and a provisional scale of assessments was approved. States Parties would make contributions in accordance therewith. States that become Parties to the Convention thereafter would contribute to the initial budget of the Tribunal in accordance with the provisional scale adjusted to include the new States Parties.

35. The draft decisions to be taken by the fourth Meeting of States Parties on budgetary matters were specific, and are contained in SPLOS/CRP.6.

VI. PREPARATORY WORK

36. The Meeting of States Parties reviewed the needs of a preparatory nature (see SPLOS/WP.1, paras. 26 and 34 and SPLOS/WP.1/Rev.1, para. 44). The post requirements for the period from April to July 1996 were set out in those documents.

37. The related costs estimated at $191,500, composed of staff costs ($156,000) and costs of preparatory missions ($35,500) are reflected in annex III to the present document, section C, start-up costs (preparatory work: April-July 1996).

Notes

1/ The documentation of Special Commission 4 is contained in LOS/PCN/152, vols. I-IV.

2/ See para. 10 of resolution I of the Third United Nations Conference on the Law of the Sea. The Meeting of States Parties for election of the Members (judges) of the Tribunal is to be convened in accordance with annex VI, article 4(4), of the Convention.

3/ See SPLOS/4, in particular, sect. III.A-C.

4/ SPLOS/4, paras. 25-29.

5/ SPLOS/WP.1, paras. 6 and 7.

6/ Presented in SPLOS/WP.1, paras. 12 and 25.

7/ LOS/PCN/L.115/Rev.1, para. 43 (d); General Assembly resolution 49/28, para. 11.

8/ SPLOS/4, para. 25(a)(iv).

9/ Convention, annex VI, article 18.

10/ Adopted in these estimates.

11/ According to the Convention, annex VI, article 18(1), in any year the total sum payable to any Member of the Tribunal as special allowance shall not exceed the amount of the annual allowance. The special allowance would be paid to a Member on a pro rata basis for those weeks that he/she is engaged in the business of the Tribunal.

12/ Approximately $219 for the first 60 days and approximately $164 thereafter (see ICSC/CIRC/DSA/240, p. 15).

13/ See SPLOS/4, para. 25(a)(iii).

14/ See Convention, annex VI, article 18(2).

15/ See SPLOS/4, para. 25(a)(ii).

16/ See also LOS/PCN/142, para. 25, and SPLOS/WP.1, para. 27. Information relating to the application of the practice is provided in the footnotes to the table in SPLOS/WP.1.

17/ The need for facsimile services, access to networks and legal databases as used in an International Court is noted. SPLOS/4 indicates the need for preparatory work by the Members, which also has implications for communications requirements (see SPLOS/WP.1, para. 28). These needs also have a bearing on the acquisition of computer-related equipment, identified under "non-recurrent expenditures".

18/ Convention, annex VI, article 19.

Annex I

POST REQUIREMENTS OF THE REGISTRY

ASG (Acting D-2)	D-2 (Acting D-1)	P-5	P-4	P-3	P-2/1	Total Professional and above	General Service (Principal levels)	General Service (Other levels)	Total General Service	Grand total
1	1	1	1	1	2	7	3	11	14	21

Annex II

DESIGNATIONS AND STAFFING LEVELS OF THE REGISTRY
DURING THE INITIAL PERIOD

29 November 1995

EXPLANATORY NOTE TO ANNEX V
(SPLOS/WP.1)

Staffing for initial period August 1996-March 1997

Professional and above

1 D-2 Registrar (Acting)
1 D-1 Principal Legal Secretary/Deputy Registrar (Acting)
1 P-5 Head, Administration and General Services (Executive Officer)
1 P-4 Head, Linguistics Services (English/French), Translation and Interpretation
1 P-3 Head, Documents Section/Library/Archives
1 P-2 Associate Secretary (Legal)
1 P-2 Budget/Accounts/Computer Systems Officer

7 Professionals

General Service level

1 Secretary to President
1 Secretary to Registrar (Acting)
1 Secretary to Principal Legal Secretary/Deputy Registrar
1 Administrative Assistant
1 Personnel Clerk
1 Finance Clerk
1 Procurement/Transport Assistant
3 Secretaries to Judges/Word Processor pool (for reports, documentation, etc.)
2 Word Processors (Linguistic services, English-French)
2 Security Officers (Part-time drivers/Messengers)

14 General Service

Note: This list has been reproduced in the same form and with the same content as circulated at the third Meeting of States Parties on 29 November 1995.

Annex III

[Table 1]

ADMINISTRATIVE EXPENSES OF THE TRIBUNAL INITIAL PERIOD
AUGUST 1996-DECEMBER 1997 (PRELIMINARY ESTIMATES)

(In thousands of United States dollars)

30 November 1995

Object of expenditure	
A. Recurrent expenditures	
Established posts	2 050.0*
Temporary assistance for meetings	116.9
General temporary assistance	107.0
Overtime	24.5
Common staff costs	63.0*
Representation allowance	3.1
Official travel	150.0
External printing and binding	37.8
Annual and special allowances of Members	2 452.6**
Maintenance of premises	143.4*
Rental and maintenance of equipment	141.4
Communications	53.9
Hospitality	4.2
Miscellaneous services	2.9
Supplies and materials	46.6
B. Non-recurrent expenditures	
Furniture and equipment	173.0
Total	5 570.3*
C. Start-up (April-July 1996)	
As per paragraph 34	191.5*
Subtotal	5 761.8**

/...

D. Contingency (January-December 1997)

Temporary Staff (5) X (12 months) (On authorization by the President arising from need in particular related to submission of a case)	409.1*
GRAND TOTAL	6 170.9**

* Indicates changes from SPLOS/WP.1.

** Indicates changes from SPLOS/WP.1/Rev.1

Note: This table has been reproduced in the same form and with the same content as circulated at the third Meeting of States Parties on 30 November 1995. References in the text therefore relate to document SPLOS/WP.1.